

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

COMMERCE WEST INSURANCE
COMPANY,

Plaintiff,

v.

GEORGE S. ALLEN, and individual in his
personal capacity; and MARY ROE, and
individual,

Defendants.

CASE NO. 3:18-cv-05828-RJB

ORDER GRANTING COMMERCE
WEST INSURANCE COMPANY'S
FOURTH MOTION TO LIFT STAY

This matter comes before the Court on Plaintiff Commerce West Insurance Company's Fourth Motion to Lift Stay (Dkt. 77). The Court has reviewed the motion, its supporting documents, and the remaining file. Neither Defendant opposes Plaintiff's request to lift the stay. Dkts. 79 and 80). Defendant Roe, however, seeks additional time to gather evidence in response to Plaintiff's previously filed Motion for Summary Judgment (Dkt. 11). For the reasons set forth in this order, Plaintiff's Motion to Lift Stay should be granted, and Plaintiff's Motion for

Summary Judgment should be stricken to be renoted in accordance with Local Civil Rule 7(d)(3).

This is an insurance coverage dispute arising out of a personal homeowner's policy (the Policy) issued by Plaintiff to Defendant George S. Allen. Dkt. 32. Plaintiff seeks a declaratory judgment on whether coverage exists under the Policy for an alleged sexual assault by Allen that occurred while performing a medical procedure on patient Mary Roe. *Id.* Allen is the defendant in both an underlying criminal action, to which Mary Roe is not a party, and an underlying civil action, brought by Mary Roe. *See Oregon v. George Solomon Allen*, Circuit Ct. of Or. for Wash. Cnty., Case No. 18CR40545 (criminal prosecution); *Mary Roe v. George S. Allen, Nu U Laser Centers, PLLC, and NW Asthma Allergy Ctr., P.C.*, Case No. 18CV23757 (civil action). The Court previously entered "a stay until judgment is entered in the underlying criminal case." Dkt. 32 at 7.

In the pending motion, Plaintiff moves to lift that stay on the grounds that Defendant Allen pled guilty to 3 Counts of Sexual Abuse in the Third Degree and 2 Counts of Harassment and judgment has been entered. Dkt. 77 at 1. Plaintiff includes the underlying criminal Petition to Enter Plea and Order, Judgment, and Judgment of Dismissal in a declaration filed with the motion. Dkt. 78. The underlying criminal matter has been resolved, Plaintiff's motion should be granted, and the stay entered at Dkt. 32 should be lifted.

Lifting the stay permits the Court to rule on the motion for summary judgment Plaintiff filed on November 28, 2018. Both Defendants responded to that motion and Plaintiff replied. Dkts. 19, 22, 24. Because over three years has passed since Plaintiff filed its motion for summary judgment, the Parties should have the opportunity to supplement their briefing. Plaintiff may file supplemental briefing on its motion for summary judgment not exceeding five

1 pages including captions and signature on or before February 18, 2022. Defendants may each
2 file a supplemental response, not exceeding five pages including captions and signature, by
3 March 4, 2022, and Plaintiff may file a reply not exceeding three pages by March 9, 2022.
4 Plaintiff's Motion for Summary Judgment will be renoted for March 11, 2022.

5 It is hereby **ORDERED** that:

- 6 • Plaintiff's motion (Dkt. 77) **IS GRANTED**;
- 7 • Plaintiff's Motion for Summary Judgment (Dkt. 11) **IS NOTED** for consideration
8 on March 11, 2022.

9 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
10 to any party appearing pro se at said party's last known address.

11 Dated this 7th day of February, 2022.

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14 ROBERT J. BRYAN
United States District Judge